

§ 4.1190

hearing is not necessary, but the applicant does not waive the 30-day decision requirement, the administrative law judge shall issue an initial decision on the application within 15 days of receipt of the application. The decision shall contain findings of fact and an order disposing of the application. The decision shall be served upon all the parties and the parties shall have 2 working days from receipt of such decision within which to appeal to the Board. The Board shall issue its decision within 30 days of the date the perfected application is filed with OHA pursuant to § 4.1184.

(i) If at any time after the initiation of this expedited procedure, the applicant requests a delay or acts in a manner so as to frustrate the expeditious nature of this proceeding or fails to comply with any requirement of § 4.1187(a), such action shall constitute a waiver of the 30-day requirement of section 525(b) of the act.

(j) If the applicant seeks to offer witnesses, exhibits, or testimony at the hearing in addition to those identified, submitted, described, or summarized in the application for expedited review perfected in accordance with the requirements of § 4.1184, upon objection by an opposing party to such offer, the administrative law judge may allow such objecting party additional time in order to prepare for cross-examination of unidentified witnesses or to identify and prepare rebuttal evidence or otherwise uncover any additional prejudice which may result to such party. The administrative law judge may rule that the running of the 30-day time for decision is stayed for the period of any additional time allowed pursuant to this subsection or may determine that the applicant has waived his right to the 30-day decision.

PROCEEDINGS FOR SUSPENSION OR REVOCATION OF PERMITS UNDER SECTION 521(a)(4) OF THE ACT

§ 4.1190 Initiation of proceedings.

(a) A proceeding on a show cause order issued by the Director of OSM pursuant to section 521(a)(4) of the Act shall be initiated by the Director of OSM filing a copy of such an order with the Hearings Division, OHA, 801 N.

43 CFR Subtitle A (10–1–05 Edition)

Quincy Street, Suite 300, Arlington, VA 22203, promptly after the order is issued to the permittee.

(b) A show cause order filed with OHA shall set forth—

(1) A list of the unwarranted or willful violations which contribute to a pattern of violations;

(2) A copy of each order or notice which contains one or more of the violations listed as contributing to a pattern of violations;

(3) The basis for determining the existence of a pattern or violations; and

(4) Recommendations whether the permit should be suspended or revoked, including the length and terms of a suspension.

[43 FR 34386, Aug. 3, 1978, as amended at 67 FR 4368, Jan. 30, 2002; 67 FR 61510, Oct. 1, 2002]

§ 4.1191 Answer.

The permittee shall have 30 days from receipt of the order within which to file an answer with the Hearings Division, OHA, Arlington, Va.

§ 4.1192 Contents of answer.

The permittee's answer to a show cause order shall contain a statement setting forth—

(a) The reasons in detail why a pattern of violations does not exist or has not existed, including all reasons for contesting—

(1) The fact of any of the violations alleged by OSM as constituting a pattern of violations;

(2) The willfulness of such violations; or

(3) Whether such violations were caused by the unwarranted failure of the permittee;

(b) All mitigating factors the permittee believes exist in determining the terms of the revocation or the length and terms of the suspension;

(c) Any other alleged relevant facts; and

(d) Whether a hearing on the show cause order is desired.

[43 FR 34386, Aug. 3, 1978, as amended at 67 FR 61510, Oct. 1, 2002]